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DIGEST OF WISCONSIN WATER POLLUTION CONTROL LEGISLATION

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Digest of WATER POLLUTION CONTROL LEGISLATION ... Wisconsin

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U. S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

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DIGEST OF WISCONSIN WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

In Wisconsin the Committee on Water Pollution, the State Board of Health, and the Conservation Department exercise functions relating to water pollution. The Committee exercises general supervision over the administration and enforcement of all laws relating to the pollution of the surface waters of the State (Sec. 144.53(1)). [1/] The functions of the Board relate primarily to water supply, drainage, water systems, and sewage and refuse disposal (Secs. 144.01-.12; 162.01-.06). Under Sections 29.29 (3) and 29.65 the Conservation Department may take action following investigation by the Committee of intermittent discharges.

The State Laboratory of Hygiene is authorized to examine water supplies for domestic purposes, among other things. The examination of water supplies includes the establishment of a water survey of the State and comprehends not only examination from a public health standpoint but may also include the examination of water to ascertain its suitability for manufacturing and commercial purposes as determined by the rules and regulations provided for by the State Board of Health (Sec. 36.225(2)(3)).

An Act of the 1953 Legislature provides an exemption from local taxation for 5 years for all real and personal property installed as the result of a recommendation or order of the Committee on Water Pollution, State Board of Health, City Council, Village Board or County Board, for the purpose of eliminating pollution of surface waters or the air, provided the operation of the facilities does not produce a net income during that period. The law also provides for accelerated amortization for tax purposes of industrial waste treatment facilities, allowing the cost to be written off in 60 months (Secs. 70.11 (21)(a), 71.04 (2b)).

1/ Citations in this digest refer to Wisconsin Statutes, 1955, unless otherwise indicated.

Any person operating a plant which creates waste material which, if released without treatment would cause stream pollution, is permitted to condemn property for the location of treatment facilities. The law defines "person" as the State, a county, town, village, city, school district or other municipal corporation, a board, commission, corporation, or housing authority created under sections 66.40 to 66.404. "Property" is defined as including estates in lands, fixture, and personal property directly connected with lands (Secs. 32.01(1)(2), 32.02(12)).

II. ADMINISTRATIVE ORGANIZATION

Committee on Water Pollution

1. Composition and organization

The Committee consists of the State Chief Engineer, a member or representative of the Public Service Commission, a Conservation Commissioner or an employee of the Conservation Commission, the State Health Officer or a member of the Board of Health, and the State Sanitary Engineer or an engineer appointed by the State Board of Health. The State Board of Health, subject to the approval of the Committee, employs a full-time Director of the Committee. The administrative and executive powers and duties of the Committee are vested in the Director, subject to the direction of the Committee, its orders, rules and regulations. The Committee holds regular meetings in January and July of each year, and such special meetings as are agreed upon, or upon call of the State Board of Health, the State Health Officer or of any three members of the Committee (Sec. 144.52).

2. Power and duties

a) General powers

The Committee exercises general supervision over the administration and enforcement of all laws relating to the pollution of the surface

waters of the State (Sec. 144.53(1)).

b) Review of plans

The Committee may require the submission and approval of plans for the installation of systems and devices for treating industrial and other wastes (Sec. 144.53(6)).

c) Enforcement

The Committee issues general orders, and adopts rules and regulations for the installation of means for controlling water pollution from industrial and other wastes. Such general orders, rules and regulations are issued only after an opportunity to be heard thereon has been afforded interested parties (Sec. 144.53(4)).

The Committee is authorized to issue special orders directing particular owners to secure, within a specified time, such operating results toward the control of water pollution as the Committee may prescribe. Pending compliance with its order, the Committee may permit continuance of operations under prescribed conditions. If such results are not secured in the specified time, the Committee may direct the owner, within a specific time, to take particular steps, or to use designated devices etc., for handling his wastes. The Committee may modify any of its orders (Sec. 144.53(5)).

Upon the verified complaint of six or more citizens filed with the Committee and alleging water pollution, the Committee is authorized to hold a public hearing. The Committee serves a copy of the complaint and a notice of hearing upon the alleged polluter at least 20 days prior to the time set for the hearing which must be held not later than 90 days from the filing of the complaint. The respondent must file his verified answer with the Committee and serve a copy on the person desig-

nated by the complainants as their representative by not later than 5 days prior to the date set for the hearing, unless the time for answering is extended by the Committee. Within 90 days after the closing of the hearing, the Committee must make its findings of fact, conclusions of law, and order. An aggrieved party may appeal such order by either asking for a rehearing or by appeal to the Courts. If a rehearing is had and the aggrieved party is still not satisfied he may then appeal to the Court (Secs. 144.537, 144.56).

In lieu of an appeal to the Court, any owner may agree in writing to submit the matter to the arbitration of three reputable and experienced sanitary engineers, one chosen by the owner, one by the Committee and the third by the other two. The decision of such arbitrators must be rendered within 30 days after their selection, unless the time is extended by agreement. No decision is binding, however, unless agreed to by all the arbitrators. The expense of arbitration is borne by the owner (Secs. 144.537, 144.56).

All orders of the Committee are enforced by the Attorney General. Where the order of the Committee prohibits pollution, a violation thereof is deemed a public nuisance (Sec. 144.536).

Violations of the provisions of the Act or the failure, to obey any order of the Committee or any joint order of the State Board of Health and the Committee is subject to a penalty of not less than $10 nor more than $100, and in case the violation is wilfull the penalty may be up to $250. Each day the violation continues is considered a separate offense. While the order of the Committee is suspended or stayed the penalty does not accrue (Sec. 144.57).

Where a problem of continued pollution is involved coming within the jurisdiction of the Committee or the State Board of Health, or both, and either or both such agencies have assumed jurisdiction, such jurisdiction is to be exclusive to these agencies notwithstanding the provisions of any statutes other than sections 144.01 to 144.57 (Sec. 144. 535).

The State Board of Health and the Committee may act jointly as to all matters relating to water pollution coming within the jurisdiction of either or both of said agencies. Any joint order may be subject to joint review (Sec. 144.565).

d) Conduct of studies, investigations and research

The Committee is authorized to study and investigate all problems connected with surface water pollution and its control and to make reports thereon (Sec. 144.53(2)). The Committee may conduct scientific experiments, investigations and research to discover economical and practicable methods for the treatment of industrial wastes. For this purpose, the Committee is authorized to accept funds on behalf of the State from any public or private agency (Laws of Wisconsin, 1957, Ch. 289, sec. 4, to be added to the Statutes as sec. 144.53(3)). The Committee is further authorized to make investigations and inspections to insure compliance with any order, rule or regulations which it may issue (Sec. 144.53(6)).

e) Cooperation with other public and private agencies

The Committee is authorized to enter into agreements with other States, subject to the approval of the Governor, relative to means and measures to be employed to control pollution of any interstate streams and other waters and to carry out such agreement by appropriate orders. This power does not extend to the modification of any agreement with any

other State concluded by direct legislative act, but, unless otherwise expressly provided, the Committee is the agency for the enforcement of any such legislative agreement (Sec. 144.53(7)).

f) Administrative powers

The Committee is authorized to hold hearings, issue orders and subpoenas, and adopt rules and regulations. It can administer oaths, compel the attendance of witnesses and the production of necessary data. It may enter any establishment for the purpose of collecting necessary information, and no owner is permitted to refuse such entry (Secs. 144.537, 144.53(4)(5), 144.55).

3. Exemption from operation of Act

Nothing in the Act is to be construed to limit or modify in any manner the powers and duties of the State Board of Health relating to its functions regarding water supplies and sewage disposal, or to select, employ and direct the sanitary engineer and all other employees of its bureau of sanitary engineering (Sec. 144.54).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful for anyone to throw refuse into any waters of the State or leave the same upon the ice thereof. Violation carries a fine of up to $100.00 and/or imprisonment up to 30 days (Laws of Wisconsin, 1957, Ch. 353).

No one is permitted to take fish by the use of explosives, poison or other stupefying substances; or throw any fish offal into the waters of the State from any vessel; or deposit into any waters any lime, tanbark, ship ballast, sand, sawdust, acids or other refuse arising from manufacturing or any other substance deleterious to game or fish life other than authorized drainage from municipalities and industrial or other wastes dis-

charged from mines or other industries through treatment facilities installed and operated in accordance with plans approved by the Committee on Water Pollution under Ch. 144, or in compliance with orders of that Committee. Any such orders are subject to modification by subsequent orders (Sec. 29.29).

It is unlawful for anyone to discharge untreated domestic sewage into any surface water; or to discharge the effluents or pumpage by any means from any septic tank, dry well or cesspool into any surface water (Sec. 146.13(2)).

It is unlawful for anyone to deposit the carcass of any animal into any stream, lake, or swale (Sec. 95.50).